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November 3, 1997

Mr. David S. Guzy
Chief, Rules and Procedures Staff
Minerals Management Service
Royalty Management Program
P O Box 25165 MS3101
Denver CO 80225-0165

RE: Establishing Oil Value for Royalty Due on Federal Leases - 62 Fed. Req. 49460 (September 22, 1997)

Dear Mr. Guzy:

The Council of Petroleum Accountant's Societies (COPAS) appreciates the opportunity to comment on the alternatives for proceeding with a further rulemaking governing oil valuation for federal leases. COPAS members have extensive experience with Royalty Management Program (RMP) rules and handle royalty valuation, allowances, adjustments, bills, audits, and other royalty matters on a regular basis. Therefore, we believe our comments will be beneficial in improving RMP processes for both the MMS and industry.

General Comments

COPAS appreciates the opportunity to participate in the first two workshops held to discuss the various alternatives. We believe these workshops were beneficial to all the participants and to MMS.

COPAS would like to reiterate that arm's-length sales should remain on a gross proceeds basis.

Specific Comments

Alternative 1 - Bid-Out or Tendering - Some COPAS members are in favor of a tendering program. They believe such a program results in a value determination at the lease which is far superior to MMS' netback calculation. COPAS does not believe that a tendering program would be used by all producers due to the cost to implement and maintain such a program and the various marketing priorities of each producer. However, COPAS supports a tendering program as a viable alternative to determine value at the lease for those lessees willing to develop and implement a program.

Alternative 2 - Benchmarks - COPAS supports the use of a benchmark system to determine market value at the lease. Lessees should have alternative methods to determine value. What works for one field or area may not work for another field or area. COPAS recommends that each lessee elect, for a prescribed period of time, an alternative for determining royalty value. The election could be changed during the time period only with MMS' concurrence. COPAS is willing to work with the states and MMS to jointly develop the alternatives or benchmarks.

Alternative 3 - Value Based on Geographical Indexing - COPAS does not believe this method would work without MMS having knowledge of how each transaction was valued. Contrary to what the States and MMS may believe, referencing to a posted price is still the recognized method within industry to value transactions. "Referencing a posted price" means the total price may be a posted price, it may be a posted price plus a premium, or it may be a posted price minus a discount. If MMS was to disregard all transactions referencing a posted price, there would not be a significant quantity of transactions left to determine value.

Alternative 4 - Determining Location and Quality Differentials - COPAS appreciates MMS' willingness to suggest alternatives in an effort to reduce the administrative burden Form MMS-4415 would place on industry and MMS. However, COPAS is opposed to the use of fixed differentials to determine deductions. COPAS is concerned with the "winners" and "losers" that would result from the use of either fixed differentials or a percentage of NYMEX to try to capture the difference between the value of production at a market center and the value of production at the lease. If a netback methodology is used to calculate a royalty price, proper deductions must be allowed in order to determine the market price at the lease. The use of fixed differentials would not result in a true market value at the lease. While MMS may be "kept whole" by virtue of its royalty percentage being 1/6 offshore and generally 1/8 onshore, the use of fixed differentials will discriminate among federal lessees by making each lessee a winner or a loser depending upon the location and quality of its production.

Alternative 5 - Spot Prices Instead of NYMEX - Mathematically, the result of MMS' netback methodology is the same whether starting with NYMEX and adjusting to spot prices or starting with spot prices. COPAS' overall concern is that the formula proposed by MMS does not result in the value of the oil at the time and place of production. No oil valuation rule based on a contrived formula can fairly and accurately determine market value at the lease. This statement is true across the United States, but especially in the Rocky Mountain area where NYMEX is not appropriate and spot prices are not available.

COPAS thanks MMS for the opportunity to comment on these alternatives. We urge MMS to continue to work with the states and industry to develop oil valuation regulations based on the value of crude oil at the lease in accordance with lease terms and MMS' long history of valuing production at or near the lease.

If you have any questions, please contact John Clark at 405-767-5044.

Sincerely,

John Clark
by lt

John E. Clark
Chairman, COPAS Federal Affairs Subcommittee

lt
cc:
Larry Monzingo
Bill Stone
Mary Stonecipher
COPAS Federal Affairs Subcommittee